

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #11	CCRB Case #: 201806934	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/21/2018 5:30 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 2/21/2020	EO SOL 2/21/2020	
Date/Time CV Reported Wed, 08/22/2018 11:54 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 08/22/2018 11:54 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Noemi Sierra	24058	951255	078 PCT
2. POM Adrian Zielinski	20521	959408	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Frantz Souffrant	00000	939510	078 PCT
2. POM Jared Desalvo	1870	958494	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Adrian Zielinski	Discourtesy: Police Officer Adrian Zielinski spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.POF Noemi Sierra	Force: Police Officer Noemi Sierra used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Adrian Zielinski	Discourtesy: Police Officer Adrian Zielinski spoke discourteously to § 87(2)(b)	§ 87(2)(b)

### Case Summary

On August 22, 2018, § 87(2)(b) filed this complaint with the CCRB online.

On August 21, 2018, around 5:00pm, § 87(2)(b) responded to her daughter's phone call about a fight, and drove to § 87(2)(b), which was determined to be located at § 87(2)(b). When she reached the location, she observed her daughter, § 87(2)(b) inside. She proceeded into the location, where she observed PO Jared Desalvo and PO Adrian Zielinski speaking with § 87(2)(b) and § 87(2)(b) her daughter's friend. After a brief exchange, § 87(2)(b) went outside to retrieve § 87(2)(b)'s identification. § 87(2)(b) provided § 87(2)(b)'s identification to the officers. The officers then instructed the three women to proceed to § 87(2)(b)'s car.

At this point, § 87(2)(b)'s son, was on scene. He spoke briefly to § 87(2)(b). PO Zielinski then spoke to § 87(2)(b) and instructed him to leave the area. Immediately afterward, PO Zielinski said "Get the fuck out of my face" to § 87(2)(b) (**Allegation A: Discourtesy, § 87(2)(g)**). Approximately one second later, PO Noemi Sierra shoved § 87(2)(b) on the shoulder (**Allegation B: Force, § 87(2)(g)**). PO Zielinski and a captain on scene, Captain Franz Souffrant, continued to speak to § 87(2)(b) while § 87(2)(b) moved away from the conversation. As Captain Souffrant and PO Zielinski spoke to § 87(2)(b) PO Zielinski stated to § 87(2)(b) "everyone keeps talking shit for no reason" (**Allegation C: Discourtesy, § 87(2)(g)**). § 87(2)(b) continued to speak to Captain Souffrant for some time after, after which PO Desalvo issued § 87(2)(b) a summons for § 87(2)(b) and all parties left the area.

Body worn camera footage from PO Desalvo's body worn camera captured the allegations pled in this case. The footage obtained in this case provided the basis to proceed with the investigation.

### Findings and Recommendations

**Allegation (A) Discourtesy: Police Officer Adrian Zielinski spoke discourteously to § 87(2)(b)**

**Allegation (C) Discourtesy: Police Officer Adrian Zielinski spoke discourteously to § 87(2)(b)**

Neither civilian provided unverified statement included allegations of discourtesy directed toward § 87(2)(b). No civilian provided a sworn statement in this investigation.

Body-worn camera footage obtained in this case led to the allegations being pled and investigated.



201806934\_20181126\_1200\_DM.mp4

A section of video extracted from PO Desalvo's activation of his body worn camera captures the entirety of the allegations in this case. The video section is approximately one minute long, in color, and is in full audio. PO Zielinski can be seen walking towards § 87(2)(b). After

ordering him to leave the area, he states “Get the fuck out of my face.” § 87(2)(b) then moves in front of PO Zielinski. After speaking with PO Zielinski for another thirty seconds, PO Zielinski states to § 87(2)(b) “everyone keeps talking shit for no reason” (BR05).

PO Zielinski testified that after responding to a call from the duty captain, Captain Franz Souffrant, he and other officers on scene had managed to largely calm the situation down. He and PO Desalvo, his partner, escorted § 87(2)(b) and § 87(2)(b) to § 87(2)(b)'s vehicle. While the officers escorted the women to the vehicle, members of the other party began to yell at them. PO Zielinski recalled interacting with an adolescent male, but did not specifically recall § 87(2)(b) and a female, but did not specifically recall § 87(2)(b). PO Zielinski recalled issuing instructions to the adolescent male to get onto the sidewalk while. PO Zielinski did not initially recall using profanity towards anyone on scene. Upon being shown PO Desalvo's body worn camera footage, he stated that he found the ongoing dispute at the hospital frustrating, and identified himself as the speaker of the statements “Get the fuck out of my face” to § 87(2)(b) and “everyone keeps talking shit for no reason” to § 87(2)(b). He made these statements in the context of an extended response to a dispute (BR02).

According to NYPD Patrol Guide Section 203-09, officers should be courteous and respectful when dealing with the public (BR09).

PO Zielinski appears on PO Desalvo's video, and says to § 87(2)(b) “get the out of my face.” As he speaks to § 87(2)(b) later on in the video, he says “everyone keeps talking shit for no reason.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (B) Force: Police Officer Noemi Sierra used force against § 87(2)(b)**

In her unverified telephone statement, § 87(2)(b) stated that while she was outside of § 87(2)(b) in the vicinity of § 87(2)(b)'s vehicle, she observed PO Sierra shove § 87(2)(b). § 87(2)(b) then intervened, and after § 87(2)(b) was issued a summons, all parties were allowed to leave (BR11).

In her unverified telephone statement, § 87(2)(b) stated that outside of § 87(2)(b), while she was seated inside her vehicle, she observed PO Sierra shove § 87(2)(b) (BR12).

No civilian provided a sworn statement in this case, and the allegation was investigated on the basis of body-worn camera footage.

PO Sierra testified that when she observed § 87(2)(b) speaking with PO Zielinski, she heard PO Zielinski issue instructions to § 87(2)(b) to get onto the sidewalk. She observed § 87(2)(b) refuse to comply with these instructions. She shoved § 87(2)(b) to cause him to comply with her instructions. She did not recall PO Zielinski using any profanity towards anyone

on scene. She did not recall any additional information upon being shown PO Zielinski's body-worn camera footage (BR03).

PO Zielinski did not recall PO Sierra using force against § 87(2)(b) and did not provide any additional contextual information upon being shown PO Desalvo's body-worn camera footage (BR02).

PO Desalvo testified that he did not recall any adolescent males on scene. He did not recall PO Zielinski using profanity towards anyone on scene, and did not recall PO Sierra using force towards anyone scene. He stated that during the portion of the incident when these events occurred, he was writing a summons to § 87(2)(b). Upon being shown his body-worn camera footage, he did not provide any additional details (BR04).



201806934\_20181126\_1200\_DM.mp4

A section of video extracted from PO Desalvo's activation of his body worn camera captures the entirety of the allegations in this case. The video section is approximately one minute long, in color, and is in full audio. PO Zielinski can be seen walking towards § 87(2)(b). After ordering him to leave the area, he states "Get the fuck out of my face." Approximately one second later, PO Sierra shoves § 87(2)(b) on his shoulder, causing him to move two to three feet backward (BR05).

According to NYPD Patrol Guide Section 221-02, officers should "utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force (BR10)."

PO Sierra shoves § 87(2)(b) on the left shoulder immediately after PO Zielinski's statement. PO Zielinski was the officer primarily engaged with § 87(2)(b) § 87(2)(g)

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

#### **Allegations not pled: Abuse of Authority**

On September 6, 2018, § 87(2)(b) provided an unverified telephone statement to the CCRB, in which she raised a vehicle search allegation. No other civilian statement corroborated this claim, and no verified civilian statement was provided for this claim. Additionally, video evidence recovered from the scene did not capture this allegation. Therefore, the allegation of a vehicle search is not being pled.

§ 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] (BR16).

### Civilian and Officer CCRB Histories

- This is the second complaint filed by § 87(2)(b) [REDACTED] with the CCRB (BR07).
- This is the first complaint associated with § 87(2)(b) [REDACTED] with the CCRB (BR15).
- This is the first complaint associated with § 87(2)(b) [REDACTED] with the CCRB (BR08).
- This is the first complaint filed against PO Zielinski with the CCRB.
- This is the first complaint filed against PO Sierra with the CCRB.

### Mediation, Civil and Criminal Histories

- Civilians did not get offered mediation as the officers were not identified when the civilians provided phone statements.
- A FOIL request for any notices of claim filed regarding this case was submitted to the New York City Office of the Comptroller. The results of this search will be added to the case file upon their receipt.
- § 87(2)(b) [REDACTED] has not been convicted of any crimes in New York City according to the New York State Office of Court Administration (BR14)
- § 87(2)(b) [REDACTED] has not been convicted of any crimes in New York City according to the New York State Office of Court Administration (BR13).
- § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED] (BR06).

Squad No.: 11

Investigator: \_\_\_\_\_ Investigator Zachary Herman \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date